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02/05/02

JC951 U.S. PTO

**UTILITY PATENT APPLICATION TRANSMITTAL  
(Small Entity)**

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Docket No.  
7879ZYAIIIZY

Total Pages in this Submission

**TO THE ASSISTANT COMMISSIONER FOR PATENTS**Box Patent Application  
Washington, D.C. 20231

Transmitted herewith for filing under 35 U.S.C. 111(a) and 37 C.F.R. 1.53(b) is a new utility patent application for an invention entitled:

**DIAGNOSIS OF METASTATIC CANCER BY THE MTS-1 GENE**

and invented by:

**Eugene Lukanidin**JC951 U.S. PTO  
10/067618

02/05/02

If a **CONTINUATION APPLICATION**, check appropriate box and supply the requisite information:☒ **Continuation** ☐ **Divisional** ☐ **Continuation-in-part (CIP)** of prior application No.: 09/298,625

Which is a:

☐ **Continuation** ☐ **Divisional** ☒ **Continuation-in-part (CIP)** of prior application No.: 08/468,942

Which is a:

☐ **Continuation** ☒ **Divisional** ☐ **Continuation-in-part (CIP)** of prior application No.: 190,560

SEE PRELIMINARY AMENDMENT

Enclosed are:

**Application Elements**

1. ☒ Filing fee as calculated and transmitted as described below
2. ☒ Specification having 124 pages and including the following:
  - a. ☒ Descriptive Title of the Invention
  - b. ☒ Cross References to Related Applications (if applicable)
  - c. ☐ Statement Regarding Federally-sponsored Research/Development (if applicable)
  - d. ☐ Reference to Sequence Listing, a Table, or a Computer Program Listing Appendix
  - e. ☒ Background of the Invention
  - f. ☒ Brief Summary of the Invention
  - g. ☒ Brief Description of the Drawings (if filed)
  - h. ☒ Detailed Description
  - i. ☒ Claim(s) as Classified Below
  - j. ☒ Abstract of the Disclosure

# UTILITY PATENT APPLICATION TRANSMITTAL (Small Entity)

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## Application Elements (Continued)

3. ☒ Drawing(s) (when necessary as prescribed by 35 USC 113)
- a. ☒ Formal                      Number of Sheets      32 (Figs. 1-32)
- b. ☐ Informal                      Number of Sheets      \_\_\_\_\_
4. ☒ Oath or Declaration
- a. ☐ Newly executed (original or copy)      ☐ Unexecuted
- b. ☒ Copy from a prior application (37 CFR 1.63(d)) (for continuation/divisional application only)
- c. ☒ With Power of Attorney      ☐ Without Power of Attorney
- d. ☐ DELETION OF INVENTOR(S)  
Signed statement attached deleting inventor(s) named in the prior application,  
see 37 C.F.R. 1.63(d)(2) and 1.33(b).
5. ☒ Incorporation By Reference (usable if Box 4b is checked)  
The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied under Box 4b, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.
6. ☐ CD ROM or CD-R in duplicate, large table or Computer Program (Appendix)
7. ☐ Application Data Sheet (See 37 CFR 1.76)
8. ☒ Nucleotide and/or Amino Acid Sequence Submission (if applicable, all must be included)
- a. ☐ Computer Readable Form (CRF)
- b. ☒ Specification Sequence Listing on:
- i. ☐ CD-ROM or CD-R (2 copies); or
- ii. ☒ Paper
- c. ☒ Statement(s) Verifying Identical Paper and Computer Readable Copy

## Accompanying Application Parts

9. ☐ Assignment Papers (cover sheet & document(s))
10. ☐ 37 CFR 3.73(B) Statement (when there is an assignee)
11. ☐ English Translation Document (if applicable)
12. ☒ Information Disclosure Statement/PTO-1449      ☐ Copies of IDS Citations
13. ☒ Preliminary Amendment
14. ☒ Return Receipt Postcard (MPEP 503) (Should be specifically itemized)
15. ☐ Certified Copy of Priority Document(s) (if foreign priority is claimed)
16. ☒ Certificate of Mailing
- ☐ First Class      ☒ Express Mail (Specify Label No.): EV010535420US

**UTILITY PATENT APPLICATION TRANSMITTAL  
(Small Entity)**

*(Only for new nonprovisional applications under 37 CFR 1.53(b))*

Docket No.  
**7879ZYAHIZY**

Total Pages in this Submission

**Accompanying Application Parts (Continued)**

17. ☐ Small Entity Statement(s) - Specify Number of Statements Submitted: \_\_\_\_\_  
☒ Applicant claims small entity status. See 37 CFR 1.27.

18. ☒ Additional Enclosures (*please identify below*):

**Request to Use Computer Readable Form of Sequence Listing From Another Application Under  
37 C.F.R. 1.821(e)**

**Request That Application Not Be Published Pursuant To 35 U.S.C. 122(b)(2)**

19. ☐ Pursuant to 35 U.S.C. 122(b)(2), Applicant hereby requests that this patent application not be published pursuant to 35 U.S.C. 122(b)(1). Applicant hereby certifies that the invention disclosed in this application has not and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing of the application.

**Warning**

***An applicant who makes a request not to publish, but who subsequently files in a foreign country or under a multilateral international agreement specified in 35 U.S.C. 122(b)(2)(B)(i), must notify the Director of such filing not later than 45 days after the date of the filing of such foreign or international application. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional.***

**UTILITY PATENT APPLICATION TRANSMITTAL**  
**(Small Entity)**

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Docket No.  
7879ZYAHIZY

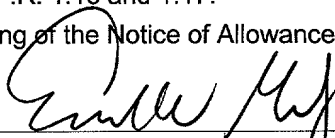
Total Pages in this Submission

**Fee Calculation and Transmittal**

**CLAIMS AS FILED**

	For	#Filed	#Allowed	#Extra	Rate	Fee
*	Total Claims	11	- 20 =	0	x \$9.00	\$0.00
*	Indep. Claims	3	- 3 =	0	x \$42.00	\$0.00
*	Multiple Dependent Claims (check if applicable) <input checked="" type="checkbox"/>					\$140.00
*	Pls. calculate claims as amended by Preliminary Amendment <b>BASIC FEE</b>					\$370.00
	OTHER FEE (specify purpose)					\$0.00
	TOTAL FILING FEE					\$510.00

- ☐ A check in the amount of \_\_\_\_\_ to cover the filing fee is enclosed.
- ☒ The Commissioner is hereby authorized to charge and credit Deposit Account No. **19-3886/RCT** as described below. A duplicate copy of this sheet is enclosed.
- ☒ Charge the amount of **\$510.00** as filing fee.
  - ☒ Credit any overpayment.
  - ☒ Charge any additional filing fees required under 37 C.F.R. 1.16 and 1.17.
  - ☐ Charge the issue fee set in 37 C.F.R. 1.18 at the mailing of the Notice of Allowance, pursuant to 37 C.F.R. 1.311(b).

  
Signature

Dated: February 5, 2002

Edward W. Grolz  
Registration No. 33,705  
Scully, Scott, Murphy & Presser  
400 Garden City Plaza  
Garden City, New York 11530  
(516) 742-4343

cc:

**CERTIFICATE OF MAILING BY "EXPRESS MAIL" (37 CFR 1.10)**

Applicant(s): Eugene Lukanidin

Docket No.

7879ZYAIIIZY

Serial No.  
To Be AssignedFiling Date  
HerewithExaminer  
UnassignedGroup Art Unit  
UnassignedInvention: **DIAGNOSIS OF METASTATIC CANCER BY THE MTS-1 GENE**

I hereby certify that the following correspondence:

New Patent Application (Continuation)

*(Identify type of correspondence)*

is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 in an envelope addressed to: The Assistant Commissioner for Patents, Washington, D.C. 20231 on

February 5, 2002*(Date)*Michelle Mustafa*(Typed or Printed Name of Person Mailing Correspondence)*  
*(Signature of Person Mailing Correspondence)*EV010535420US*("Express Mail" Mailing Label Number)***Note: Each paper must have its own certificate of mailing.**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Eugene Lukanidin

Examiner: Unassigned

Serial No.: To Be Assigned

Art Unit: Unassigned

Filed: Herewith

Docket: 7879ZYAIIIZY

For: DIAGNOSIS OF METASTATIC  
CANCER BY THE MTS-1 GENE

Dated: February 5, 2002

Assistant Commissioner for Patents  
Washington, D.C. 20231STATEMENT UNDER 37 C.F.R. §1.821(f)

Sir:

I hereby state that the content of the paper copy of the Sequence Listing submitted in accordance with 37 C.F.R. §§1.821(c) and (e), respectively, is identical to the Computer Readable Form of the Sequence Listing filed on February 26, 2001 in Application Number 09/298,625 and does not introduce new matter.

Respectfully submitted,


Frank S. DiGiglio  
Registration No. 31,346

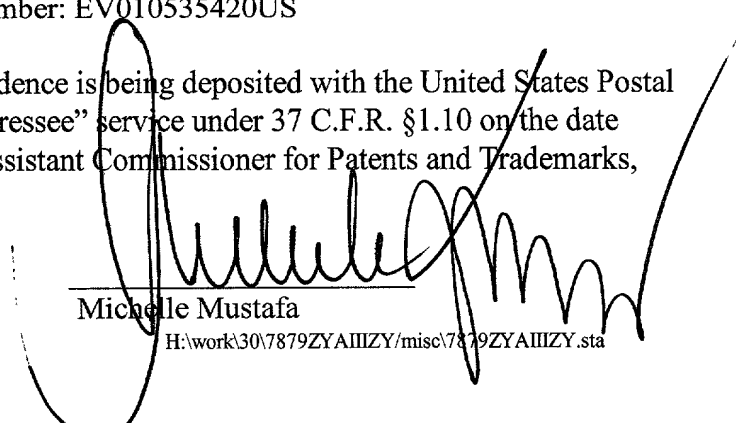
SCULLY, SCOTT, MURPHY & PRESSER  
400 Garden City Plaza  
Garden City, New York 11530  
(516) 742-4343  
FSD/XZ:ab

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

"Express Mail" Mailing Label Number: EV010535420US

Date of Deposit: February 5, 2002.

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. §1.10 on the date indicated above and is addressed to the Assistant Commissioner for Patents and Trademarks, Washington, D.C. 20231.

Dated: February 5, 2002
  
Michelle Mustafa

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2002 FEB 06 10:00 AM

PATENTS

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

<b>Applicant(s):</b>	Eugene Lukanidin	<b>Examiner:</b>	Unassigned
<b>Serial No.:</b>	To Be Assigned	<b>Art Unit:</b>	Unassigned
<b>Filed:</b>	Herewith	<b>Docket:</b>	7879ZYAIIIZY
<b>For:</b>	DIAGNOSIS OF METASTATIC CANCER BY THE MTS-1 GENE	<b>Dated:</b>	February 5, 2002

Assistant Commissioner for Patents  
United States Patent and Trademark Office  
Washington, D.C. 20231

**REQUEST TO USE COMPUTER READABLE FORM OF SEQUENCE LISTING FROM  
ANOTHER APPLICATION UNDER 37 C.F.R. §1.821(e)**

Sir:

The computer readable form of the Sequence Listing in the above-identified patent application is identical to that filed in a Response to Notice to Comply on February 26, 2001 in Application Serial Number 09/298,625. In accordance with 37 C.F.R. §1.821(e), Applicant respectfully requests that the computer readable form filed in Application Serial Number 09/298,625 be used as the computer readable form in the above-identified application.

**CERTIFICATE OF MAILING BY "EXPRESS MAIL"**

"Express Mail" Mailing Label Number: EV010535420US

Date of Deposit: February 5, 2002

I hereby certify that this Correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. §1.10 on the date indicated above and is addressed to the Assistant Commissioner of Patents and Trademarks, Washington, DC 20231.

Dated: February 5, 2002

  
Michelle Mustafa

It is understood that the Patent and Trademark Office will make the necessary change in application number and filing date for the computer readable form used in the above-identified application. A paper copy of the Sequence Listing is included in the specification of the above-identified application filed herewith.

Respectfully submitted,



Frank S. DiGiglio  
Registration No. 31,346

SCULLY, SCOTT, MURPHY & PRESSER  
400 Garden City Plaza  
Garden City, New York 11530  
(516) 742-4343  
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